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21967 7590 05/18/2009 HUNTON & WILLIAMS LLP INTELLECTUAL PROPERTY DEPARTMENT 1900 K STREET, N.W. SUITE 1200 WASHINGTON, DC 20006-1109				
EXAMINER				
PLUMMER, ELIZABETH A				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/735,498

Applicant(s)

ZEN, VIC DE

Examiner

ELIZABETH A. PLUMMER

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9, 16, 20 and 22-24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 9, 16, 20 and 22-24 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Applicant's amendments and arguments received 02/05/2008 have been entered and considered. An examination of pending claims 9, 16, 20, and 22-24 is herein presented.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 9, 22 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Phillips et al. (US Patent 4,621,478).

a. Regarding claim 9, Phillips et al. discloses a window frame unit (Fig. 9) comprising a first (74 right side of Fig. 9) and second (20) one piece integrally molded area circumscribing frame members (column 3, lines 46-56; column 4, lines 20-26), each of said first and second members comprising an outer perimeter (formed by edges of the side of the outer wall) defined by a laterally extending peripheral wall (Fig. 9), an interior facing side wall, and an exterior facing side wall (Fig. 9), wherein the first and second frame members are joined

along at least a portion of their respective interior facing side walls (bottom of figure Fig. 9) so that the joined frame members form a first support frame circumscribing a first window area and defining a first article retaining channel (right channel of Fig. 9 between 20 and 74), said first channel opening into said area circumscribed by said first support frame and extending there around (Fig. 1,9), said frame unit further comprising a third one piece (74 left side of Fig. 9) integrally molded (column 4, lines 20-26) area circumscribing frame member, said third frame member comprising at least an outer perimeter (formed by edges of the side of the outer wall) defined by a laterally extending peripheral wall (Fig. 9), a first side wall (right side), a second side wall (left side), wherein the third frame member is joined to the second frame member (20) such that the first side wall (right side) of the third frame member is facing at least a portion of the exterior facing wall of the second frame member (20) to form a second support frame circumscribing a second window area therewithin and defining a second retaining channel (left channel of Fig. 9 between 20 and 74) between said second (20) and third (74) frame members, said second retaining channel opening into the area circumscribed by the second support frame and extending therearound, wherein either of the support frame and capable of receiving a slidable window sash.

b. Regarding claim 22, Phillips et al. discloses first (74) and second (20) one piece integrally molded area circumscribing frame members (column 3, lines 46-56; column 4, lines 20-26) that fit against one another to form a first support

frame (Fig. 1,9) circumscribing a window area therewithin and defining an article retaining channel (right side of Fig. 9) between said first and second frame members, said channel opening into said area circumscribed by said first support frame and extending therearound, said first and second frame members capable of forming opposite sides of a sliding window unit frame, each of said first and second frame members further having an outer perimenter (formed by the edges of the side) defined by a laterally extending wall, at least one of frame members (left side of 20, right side of 74) having laterally projecting peripheral walls (walls by 120, 122 of Fig. 9) extending around their outer perimeter which spaces said opposite frame member from one another when the same are assembled, both said one piece frame members having at their inner perimeters an integral lip (left sides of 40) having a width less than one half the spacing of said spaced opposite frame sides, said lips projecting inwardly of the frame sides when assembled to form inner walls having slots (116) therethrough overlaying at least portions of said retaining channel and reducing openness of said channel into said circumscribed area in said portions to said slots (Fig. 9).

c. Regarding claim 16, a third (74) one piece integrally molded (column 4, lines 20-26) rectangular area circumscribing frame member, comprising at its outer perimeter a laterally extending peripheral wall, a first side wall (right side) attached to a side (left side) of the first support frame and forms therewith a second support frame circumscribing a second window area therewithin, in which the third frame member (left 74 of Fig. 9) forms one side of the support frame and

the frame member to which the third frame member is attached (20) forms the other side of the second support frame (Fig. 9).

3. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Leonelli (US Patent 5,577,355). Regarding claim 20, Leonelli discloses first (7a) and second (7b) one piece integrally molded area circumscribing frame members (column 4, lines 7-10) that fit against one another to form a support frame circumscribing a window area therewithin an defining an article retaining channel (Fig. 3) between the first and second frame members, said channel opening into said area circumscribed by said support frame and extending therearound, each of said frame members having an outer perimeter (formed by side edges of the outer wall) defined by laterally projecting peripheral walls (25a, 25b) (Fig. 3) which abut when said frame members are fitted together (Fig. 4,6), each of said frame members further having about at least a portion of at its inner perimeter integrally projecting lip (13a,13b) which, whereby when said members are fitted together, said lips project inwardly but do not abut, thereby forming face slotted walls overlaying at least portions of said retaining channel, reducing openness of said channel into said circumscribed area in said slotted wall portions to said space between said lips (Fig. 5,6).
4. Claims 23-24 rejected under 35 U.S.C. 102(e) as being anticipated by Guhl et al. (US Patent 6,055,783).

- a. Regarding claim 23, Guhl et al. discloses first (200) and second (177) one piece integrally molded (column 4, lines 4-5) area circumscribing frame members that fit against one another at their outer perimeters to form a first support frame

(bottom of Fig. 12) circumscribing a window area therewithin and defining a first article retaining channel (between 177 and 200), said first retaining channel opening into said area circumscribed by said first support frame and extending therearound, said first and second frame members capable of forming on assembly a face to face spaced opposite sides of a window frame (Fig. 11), at least one of said frame members (177,200) having at the outer perimeter thereof a laterally projecting wall (left wall of 177, right wall of 200) which spaces opposite sides from one another and defines said first retaining channel as a window unit retaining channel (Fig. 12), in combination with a third one piece molded area circumscribing rectangular frame member (175) capable of assembly with one of the first and second frame members (Fig. 12) to form an adjoining second support frame having a second window retaining channel (Fig. 12), wherein the first and second support frame are capable of receiving a slidable window sash.

b. Regarding claim 24, the first and second frame members have at least over a portion of their inner perimeter integral inwardly projecting lips (204 on 200, right wall of 177) having a width less than half the spacing between said spaced opposite sides of said window frame, forming a slotted inner wall overlaying at least a portion of said first retaining channel (Fig. 12).

Response to Arguments

5. Applicant's arguments filed 02/05/2008 have been fully considered but they are not persuasive. Regarding applicant's argument that Philips fails to disclose a window

frame unit comprising a one piece integrally molded area circumscribing frame member, each of the members shown in Philips are integrally molded; the claim limitations are written do not require that only be three frame members. While each frame section that entirely circumscribes an entire window panel consists of four different members, each individual member is still integrally molded. Furthermore, regarding applicants that these members are actually extruded, not molded, extrusion is a type of molding process. Furthermore, determinations of patentability are determined by the product itself, not by the process by which it is made (ie. extrusion or an alternative molding process). As for the amended limitation of an "outer perimeter", each of the frame members inherently have an outer perimeter, and each still circumscribe a window "area". Note, that circumscribing a "window area" is interpreted as an area of the window is circumscribed (such as a left side, a right side, a bottom side or a top side), and not that an entire window pane is circumscribed. Similarly, Leonelli and Guhl also discloses frame members which are each integrally formed.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH A. PLUMMER whose telephone number is (571)272-2246. The examiner can normally be reached on Monday through Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Primary Examiner, Art Unit 3633

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